

AT A SPECIAL JOINT BOARD OF SUPERVISORS/TOWN COUNCIL
MEETING HELD AT GERMANNA'S DANIEL TECHNOLOGY CENTER, 18121
TECHNOLOGY DRIVE, ROOM 104 B & C ON THURSDAY, JANUARY 14, 2010.

Board Members Present:

Brad C. Rosenberger, Chairman

Larry W. Aylor, Vice-Chairman

Sue D. Hansohn

Steven E. Nixon

William C. Chase, Jr.

Tom S. Underwood

Steven L. Walker

Staff Present:

Frank T. Bossio, County Administrator

Roy B. Thorpe, Jr., County Attorney

John C. Egertson, Planning Director

Paul Howard, Environmental Services Director

Jim Hoy, County Engineer

Donna B. Foster, Deputy Clerk

Barry A. Atchison, Assistant to the Deputy Clerk

Town Council Present:

Pranas A. Rimeikis, Mayor

William M. Yowell, Vice-mayor

Calvin L. Coleman

Laurel Gravatte

Michael T. Olinger

James C. Risner

Robert M. Ryan

Christopher H. Snider

Town Council Absent:

Duke M. duFrane

Town Staff Present:

Jeff Muzzy, Town Manager

Robert Bendall, Town Attorney

Chris Hively, Environmental Services Director

Ron Mabrey, Town Finance Director/Treasurer

Kimberly Allen, Town Clerk

CALL TO ORDER

Mr. Rosenberger, Chairman of the Board of Supervisors and Mr. Rimeikis Town Mayor called the meeting to order at 6:00 p.m. Mayor Rimeikis noted for the record Mr. duFrane was not present.

Mr. Rosenberger noted that a list of points of agreement and differences was before all members of the Joint bodies. He acknowledged that some of the Town Council were seeing the list for the first time and explained that staff had extracted and combined the information from both the Town and County proposals and compiled the points in one document to give both parties points of discussion. He also noted staff had prepared a power point presentation

of the same information and asked Mr. Egertson to display it on the projection screen so the audience could follow along. Mr. Rosenberger and Mayor Rimeikis agreed the points of agreement needed no further discussion, the Mayor then reviewed the points of disagreement.

Mayor Rimeikis began the discussion by questioning the rationale for the Town expansion line limit at Route 29. He felt it was not clear why a border was necessary. Mr. Walker answered it was a clear boundary line as recommended by the Commission on Local Governments, who would be looking for clear lines.

Mrs. Hansohn added roadways, highways and waterways are clear lines that are traditional boundaries that people look for. She thought there was quite a bit of land even in that boundary.

Mr. Risner's understanding from previous meetings was as the water and sewer lines were extended they would set the boundaries for Town expansion. He said one of the things the Council had been discussing was according to the Area of Potential Adjustment (APA), presented and discussed in previous Joint meetings, the Town would grow as the water and sewer system grows. He felt that made sense, but to limit the Town from growing beyond Route 29 if water and sewer was extended in that direction, to him did not make sense. He thought the whole idea of this project was is to put the water and sewer in the environs that would be looking like the Town in a few years.

Mrs. Hansohn commented the idea that the line kept changing over time is problematic. She thought that maybe expanding in phases would work better because there would be definition. She felt a free flowing expansion would be difficult to understand. Mr. Snider stated under the Town's proposal the Town boundary line would never change if the water and sewer service area does not change.

Mrs. Hansohn clarified that what the Council was referring to was the water and sewer districts, by using these, the Town expansion would have specific boundary lines.

Mr. Risner felt the water and sewer district made a good outside boundary.

Mrs. Hansohn questioned if the Board agreed, and she specified what the Council was saying was the Town would only take in new areas as the water and sewer grew but new areas would still not be brought into the Town until it develops. Mr. Risner replied yes, the water and sewer districts would be defined as a boundary for the Water and Sewer Authority but the Town would only grow as there is growth and development within the water and sewer district.

Mayor Rimeikis, as an example of what Council was proposing, referred to the area at the Lowes intersection, he said at one time Ira Hoffman Lane was a clear line on where the County line was, but it now looks and feels like town beyond Ira Hoffman. He added the initial boundary line adjustment (BLA) would take that in, and he felt that was a perfect example of how the Town would expand under their proposal.

Mr. Rosenberger asked if the Board would agree with Council's proposal at some point, would Council still want to have no limitation on annexation. Mr. Risner commented that to him 25 years was a long time, he felt it was open to negotiation, but he emphasized he was not speaking for the Council.

Mr. Coleman added if that was the only thing holding up negotiations it did not bother him.

Mr. Aylor thought the boundary line was a good starting point and was willing to listen to discussion on trigger points and get input from staff. He added nothing was written in stone, the Board and Council just had to work together. His position was if the two governing bodies can agree on trigger points, then he was open to look at it.

Mr. Snider agreed with Mr. Aylor on with having the districts the same and having trigger points, as well as, joint planning. The Board and Council would have to work together because what benefits one benefits the other.

Mr. Aylor stated maybe if they could agree to look at that in depth then that would be the position to take.

Mr. Underwood agreed with Mr. Aylor and remarked that perhaps not having a fixed boundary other than the water and sewer district would be good, that was what was presented back some time ago.

Ms Hansohn asked if staff had a trigger points presentation prepared.

Mr. Muzzy discussed the original proposal and the general evolution of discussions. He said originally the plan for Town growth was simply defining the area where it could take place and that was contiguous with the water and sewer service area. He recounted the Town had said they were not interested in growth other than in business and commercial areas. He mentioned there had been discussion of scenarios where development took place away from the water and sewer service area and how, or if the Town could expand to them.

Mr. Bossio stated there had been discussion on all sorts of triggers and at the time each side wanted safeguards. He questioned if the Board and Council could discuss what they want to safeguard and then he and Mr. Muzzy could define what specific triggers are necessary. He stated the concept before was the Town would take over areas when economically feasible to do so and if it did not make good economic sense, it would not be good to do it. He added then there was discussion concerning protection of agricultural property, and pointed out that the leap frog approach causes other issues because additional safe guards have to be built in.

Mr. Risner felt instead of waiting for property to be completely developed by the County it would be nice for a trigger to take place in advance. He thought a good example of a trigger, would be when the Town and County see water and sewer service going into certain areas, then they would need to start negotiating and talking about when to boundary adjust along with the planning departments and other inputs.

Mr. Bossio specified this is an example of where a trigger might be used for protection on the County side if the land goes over to the Town, then the proffers go to the Town but the County has the schools. Mr. Risner responded the Town has a proffer for the school system, but the Town's main desire is not more roof tops. Brief discussion of the Town and County proffer systems ensued.

Mr. Muzzy commented one of the things Mr. Risner was describing was sequential growth, he felt as long as the growth goes that way it will work well. He asked what happens

when a large commercial development goes outside of the water and sewer district in competition with town development.

Mrs. Hansohn stated the County did set the service areas for commercial and industrial growth because it was the County's intent for them to stay within the service areas. She did not believe there was anything to encourage that type of growth outside the service area.

Mr. Coleman asked if the County controls the service areas. Mrs. Hansohn replied correct. Discussion ensued on several scenarios where triggers may be required and ended with Mr. Underwood asking, what would prevent the Council from taking all the water and sewer areas into the town. Mayor Rimeikis replied the Town would go broke so for that reason it did not make fiscal good sense.

Mr. Risner commented that was why both parties needed more definition on triggers because something was needed that was clean cut but not so strict that it did not allow anything to happen.

General discussion concerning the Town's effort to place the Water and Sewer Authority on the May or November referendum ensued.

Mrs. Hansohn thought the referendum discussion was putting the "cart before the horse". She thought the Board and the Council needed to iron out the agreement before discussing anything else. She asserted if there was no referendum in May then they should use the time to work on the agreement and they "should do it now, this minute". She added it should not be that hard since they all know what the differences are.

Mrs. Hansohn stressed they should work on the differences one by one. She advised the members that she had staff bring a map of the service areas to refresh every ones memory.

Mr. Bossio displayed a Water and Sewer Service Area Map passed out copies to all Board and Council members.

Mrs. Hansohn asked as each member reviewed the map, if that was what Council was referring to as the service area. Mr. Snider replied what Council wanted was the APA and water and sewer districts as one and the same, he added that the service districts would not necessarily trigger a boundary line adjustment (BLA) for the Town. Mr. Underwood asked then what would the specific trigger be to boundary line adjust a particular area.

Mr. Snider replied it had not been developed yet.

Mrs. Hansohn asked using the Montanus area as an example of one of the first boundary line adjustments, what would be put into writing to describe the area to be taken into the Town boundary. Mr. Bossio stated it would refer to the area outlined on a map. Mrs. Hansohn clarified her question was what would be the written details that permitted it.

Mr. Risner stated what he would like to see first was a letter of intent to extend water and sewer service into a given area, then the Town and County meet to discuss, and plan the next step.

Mrs. Hansohn asked if a company on one of the lots on the other side of Montanus and

Route 666 requested service, would the Town extend service. Mr. Risner replied it would be up to the Authority, but if they did, the Town would have to determine if it was economically feasible to take it in to the Town boundary.

Mr. Underwood commented, by definition, the water and sewer areas are where the County wants to extend water and sewer lines. He explained the Board was trying to determine what Council's intention was for areas that water and sewer lines have been extended to outside of the water and sewer areas, such as the commercial development currently underway at Route 666 and 29. He asked what would be needed. For him there were two possible triggers, either zoning, intended use in the Comprehensive Plan and he added a third trigger, tax revenue. Mr. Underwood continued to discuss his ideas on the three triggers in detail.

Mr. Snider pointed out that one flaw with using zoning as a trigger was there are areas on the future zoning map that are designated for industrial use that are being used for commercial use.

Mr. Underwood responded that the County and Town would have to look at their actual current use and actual tax revenue versus proposed future use.

Mr. Nixon asked how properties under Land Use taxation would be addressed if they were brought into the Town limits in a scenario such as the one mentioned by Mr. Underwood.

Mr. Rosenberger commented that scenario would not allow the Town to take it.

Mr. Nixon responded the County would have to develop it before the Town could annex it. Discussion continued on developing various triggers for Town expansion into or around undeveloped or Land Use taxed areas.

Mrs. Hansohn remarked she felt the Board and Council had a lot of useful discussion about service areas and before they moved on to any other discussion, they needed to reach some agreement on the service area, and if they could not there was no reason to continue. Mr. Rosenberger advised he could poll the Board or entertain a motion, which ever the Board desired. Ms. Hanson expressed her feeling that both sides needed to say if this issue and the map presented are what they want to look at as service areas.

Mr. Nixon asked if a business comes to the area and the County offers tax concessions or if the County has given them a rebate will the Town honor the agreement if the business is taken into the Town in a subsequent boundary line adjustment. Mr. Risner indicated he was opposed to giving rebates to big box companies in general. Mrs. Hansohn commented there were times when the County had to offer incentives. Mr. Nixon asked would the Town honor the incentive after a boundary line adjustment. Mr. Yowell replied if there was a sunset clause and it does not last forever, yes he believed the Town would honor it.

Discussion briefly returned to joint land use planning and ended with Mr. Nixon questioning if under the same scenario as the tax concessions, would conditional use permits be honored. Mr. Risner thought it was a good point but it would have to be addressed legally because it would be going from one jurisdiction to another.

Mr. Underwood commented, in order to wrap up the discussion, it would be good to know if members of the Board and Council were comfortable with areas that mimic the water

and sewer areas with triggers and along with land use taxation of A1 and RA zoned property.

Mr. Risner and Mr. Coleman agreed.

Mrs. Hansohn asked if any of the Board members had any objections

Mr. Rosenberger believed they were in agreement. He thought the discussion had given the staff something to go back and work on and they had a direction to work toward based on the evenings' discussion. He also felt everyone present was trying to move forward and make something work.

Mr. Rosenberger asked if there was any further discussion for item 1. With no further discussion he opened the floor to discussion of item 2, Town Ultimate Total Growth Should Not Be Limited.

Mr. Risner addressed Mayor Rimeikis saying he felt the Council's agreement to point 1 takes care of point 2.

Mr. Nixon commented unless the water and sewer area is changed and made greater or smaller, the Authority, if it is formed, may have a valid reason to adjust them.

Mr. Underwood commented in favor of some period for the agreement and said it would be good for the citizens to know what the size of the town would be. He added staff came up with the 11 square miles which made sense and added a finite element to the Town growth.

Mayor Rimeikis noted if growth is limited by the water and sewer area then that was the limit. Mr. Coleman added growth would also be limited by triggers.

Mr. Underwood observed the agreement was not perpetual because ultimately the water and sewer service could go to the Airpark so the concept of what water and sewer areas are, could change over time.

Mr. Snider asked for the reasons for the 11 square miles. Mr. Risner remarked it was probably a good number at the time and may not be the best any more.

Mr. Nixon commented maybe the obvious question was how big is the water and sewer service area. Mr. Bossio replied 8.7 miles plus the original 6.2 mile for a total of 15.2. Mrs. Hansohn noted, which did not mean a thing. Mr. Snider asked, so we're not arguing over this? Mr. Nixon replied, "no we're just spelling it out". A brief discussion ensued.

Mr. Rosenberger remarked with that point being covered he would like to go back to the discussion of limitation on annexation. Mr. Snider commented, if both sides agreed to have the APA and water and sewer districts as one and the same, with agreed upon triggers, annexation would be unnecessary. Mr. Risner asked what the County's concern was. Mr. Nixon suggested reversing the situation and discussed how too much Town growth too soon could adversely affect the County.

Mr. Bossio added that it also follows the Council on Governments model for boundary line adjustments or hostile annexation which normally have a time limit for future expansion as a result. Mr. Risner felt the 25 year time limit did not make sense, because 25 years was a

whole different generation. Mr. Walker noted the time limit would only be for a hostile annexation, not an agreed upon boundary line adjustment. Mr. Coleman stated he was in the minority but he did not know why Council was caught up on the time limit when they have the ability to adjust in water and sewer district.

Mr. Underwood asked if Council agreed with the 25 year no city status. Council indicated general agreement. Discussion of the history and requirements for gaining city status followed.

Mr. Walker asked besides Mr. Risner was everyone else on Council okay with the 25 year time limit for hostile annexation. Mr. Risner stated he just wanted the opportunity to discuss the issue with Council and he felt the current meeting was not the place for Council to have their discussion. Mr. Walker asked if the rest of Council felt the same. Mr. Yowell asked why the County felt the need for a 25 year limit. Mr. Walker replied the County was offering an open ended boundary line adjustment and did not want to have to face a hostile annexation as well. Mrs. Hansohn noted the County was doing a lot to work with the Town.

Mr. Rosenberger pointed out that Councils and Boards can change and he thought this needed to be locked down for the future.

Mr. Thorpe commented on the issue of the 25 year limit on annexation, saying the members of both the Board and Council could benefit from studying examples on what has occurred and been approved by the Commission on Local Government. He thought if the two parties could come to agreement it would provide stability for all citizens and promote economic growth. He also thought it would let everyone know that the agreement was going to be the law of the land for that time period. He said it also gives the Town and County a deadline on when to come back together again and negotiate a new agreement.

Mr. Aylor believed a lot of progress had been made and asked the Council to consider what had been discussed and what Mr. Thorpe had said. He noted the two parties can come back and change what does not work and add to the things that benefit the community. He asked that Council seriously consider that as both parties work on other points.

Mr. Underwood remarked he envisioned things changing and could see future Councils and Boards having different views. He advised, without some limit on the size of Town growth, he would vote against the agreement.

Following further discussion of Town expansion limits and triggers Mr. Thorpe remarked it sounded like the two parties were close to the parameters of an agreement. He asked was it the members intent to have more bullet points or rough drafts of legal documents for the next meeting. He stated his specific question was, is it time for attorneys to do something.

Mayor Rimeikis wanted to review the bullet points again to see if there were more points of agreement than disagreement.


Mr. Nixon agreed but he added he wanted bullet points with some specificity.

Discussion followed with a consensus agreeing on reviewing bullet points with the detailed triggers for boundary line adjustments at the next meeting.

Following a discussion, the next meeting was set for February 4, 2010 at 6:00 p.m. at Germanna's Daniel Technology Center.

ADJOURNMENT

The meeting adjourned at 7:45 p.m.



Barry A. Atchison
Assistant to the Deputy Clerk



Brad Rosenberger, Chairman

ATTEST:



Frank T. Bossio
Clerk to the Board